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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2409 of 2007

Petitioners	1.	Ramlal Ram, S/o Budhuram, Aged 39 years, Working as Chowkidar, R/o Gomharia, Tehsil & Distt. Jashpur (C.G.).
	2.	Smt. Nirmala Bai, C/o Late Mader Ram, Aged 40 years, Working as Waterman, R/o Madhuvantoli, Tehsil & Distt. Jashpur (C.G.)
	Versus	
Respondents	1.	State of Chhattisgarh, Through the Secretary, Department of Tribal Welfare, Mantralaya, Raipur (Chhattisgarh).
	2.	Collector, Aadim Jati Kalyan Branch, Jashpur, Tehsil & Distt. Jashpur (C.G.). The Then Raigarh (C.G.)
	3.	Assistant Commissioner, Aadivasi – Vikas Tribal, Jashpur.(C.G.)
	4.	Commissioner, Aadivasi Vikas Raipur (C.G.)

WRIT PEITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Rahul Jha, Advocate for the Petitioners.

Shri Ajay Dwivedi, Panel Lawyer for the respondents.

ORDER

(Passed on this 19th day of April, 2007)

1. By this petition, the petitioners have challenged the validity of the order dated 4.10.1997 (Annexure P/4) passed by the Additional Collector, Raigarh, whereunder the grant of regular pay scales to the petitioners were withdrawn and the petitioners were paid thereafter daily wages as per Collector's rate.

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2. The indisputable facts in nutshell, are that initially the petitioners were engaged on daily wages on various on the post of Chowkidar and Waterman, respectively vide order dated 21.10.1992 (Annexure P/1) and 31.3.1990 (Annexure P/2) and thereafter granted regular pay scales vide order dated 19.9.1997 (Annexure P/3).

3. Learned counsel appearing for the petitioners would contend that once a right of a particular pay scale has been granted to the petitioners in accordance with law, the same cannot be withdrawn, without affording an opportunity of hearing. The petitioners have acquired the right to the fixed monthly pay scale as their services were regularized. Thus the impugned circular as well as the impugned order are bad and deserve to be quashed.

4. Learned counsel for the petitioners heavily referred to a judgment and order dated 18th January, 2006 passed by this Court in Writ Petition No. 2125/2002 (**Sant Kumar & others Vs. State of Chhattisgarh & others**), wherein this Court while considering the identical issue of reducing the regular pay scale granted earlier, held that the order reducing the pay scale of an employee behind their back, without following any procedure known to law is punitive and visits with civil consequence. The same cannot be passed without giving concerned employee, an opportunity of hearing.

5. Learned counsel for the petitioner further submits that the respondents/State of Chhattisgarh preferred a Special Leave Petition (Civil) No. 17122/2006 (State of Chhattisgarh & others Vs. Sant Kumar & others) before the Hon'ble Supreme Court, challenging the order dated 18.1.2006 (supra), passed by this Court and the same has been dismissed by the Hon'ble Supreme Court vide order dated 9.10.2006 after condoning the delay.

6. In view of the foregoing, I am of the considered opinion that the impugned order dated 4.10.1997 (Annexure P/4), is bad in law, being punitive in nature, without affording an opportunity of hearing to the concerned employees (petitioners) for putting forward their cases.

7. Accordingly the order dated 4.10.1997 (Annexure P/4) is quashed. The petitioners are entitled to regular pay scales from the date the same have been withdrawn by the impugned order. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

Thakur